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9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 ROBERT STILLWELL, et al.,

12 Plaintiffs,

13 v.

14 RADIOSHACK CORPORATION,

15 Defendant.

Civil No. 07cv607 JM (CAB)

**ORDER REGARDING PLAINTIFFS' EX  
PARTE APPLICATION FOR A  
PROTECTIVE ORDER AND MOTION TO  
COMPEL**

**[Doc. No. 76.]**

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17 Before the Court is Plaintiffs' Motion for: (1) a Protective Order that precludes the Plaintiffs'  
18 deposition from being taken; and (2) an Order compelling the production of Defendant's ESI documents  
19 using search terms, and of custodians, proposed by Plaintiffs within the next 30 days. [Doc. No. 76.]  
20 Defendant has not yet filed an opposition.

21 Plaintiffs' motion for the Protective Order is **DENIED**. Rule 30 provides that any party may  
22 depose any person, including a party, without leave of court. Fed. R. Civ. P. 30. Rule 26 provides that  
23 the methods of discovery may be used in any sequence, and discovery by one party does not require any  
24 other party to delay its discovery. Fed. R. Civ. P. 26(d). In short, following the Rule 26(f) conference,  
25 Defendant could have noticed the Plaintiffs' depositions at any time, and its right to proceed with those  
26 depositions was not dependent upon its compliance with Plaintiffs' document production requests.  
27 Plaintiffs cannot condition their appearance at a properly noticed deposition on the completion of  
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1 Defendant's document production. Defendant may proceed with the depositions noticed to begin on  
2 July 28, 2009.

3 Similarly, Defendant cannot condition the completion of document production on Plaintiffs'  
4 compliance with its deposition notices. Defendant may, however, file an opposition no later than July  
5 31, 2009, to the motion to compel production of documents.

6 **IT IS SO ORDERED.**

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8 DATED: July 24, 2009

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11 **CATHY ANN BENCIVENGO**  
12 United States Magistrate Judge  
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